THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23473 OF 2006

DATED 27th NOVEMBER, 2006

BETWEEN:

M/S.K.V.Laterite Mines and Minerals

… Petitioner

AND

The Secretary to Government, Industries & Commerce (M-11) Department, Government of A.P., Secretariat, Hyderabad and others.

… Respondents

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ORDER:

The petitioner is a proprietary concern which purchased land admeasuring Ac.34.30 guntas in survey No.1/2 situated at Mallampally village of Mulugu Mandal in Warangal District under an unregistered document in 1994. But, subsequently obtained a registered sale deed, dated 10.11.2005, in respect of land admeasuring Ac.15.00 guntas out of total extent in survey No.1/2. It also obtained necessary mutation. However, the seventh respondent obtained Pattadar Pass Books and Title Deeds (PPB/TD) from the sixth respondent. Aggrieved by the same, the petitioner filed appeal before the fifth respondent on 17.12.2004 and the appellate authority suspended the proceedings of the Mandal Revenue Officer (MRO) granting PPB/TD in favour of seventh respondent. On 24.08.2005, the Revenue Divisional Officer (RDO) revoked the suspension order against which the petitioner filed W.P.No.19869 of 2005. This Court on 09.09.2005 while ordering *status quo* disposed of the writ petition directing fifth respondent to finally decide the appeal. In the meanwhile, the petitioner on 16.11.2004 applied for grant of mining lease for an extent of 8.48 hectares for laterite minerals. The seventh respondent also submitted similar application. The same was processed and sixth respondent also sent no objection report for grant of quarry lease in favour of seventh respondent. Respondents 1 to 4 did not consider nor reject the application made by the petitioner on 16.11.2004. The first respondent ultimately issued G.O.Ms.No.290, Industries & Commerce (M-II) Department, dated 24.10.2006 granting mining lease for laterite over an extent of 6.837 hectares in survey No.1/2 of Mallampally village of Mulugu Mandal in favour of seventh respondent. The writ petition is filed by the petitioner assailing the said Government Order.

Learned counsel for the petitioner submits that grant of lease in favour of seventh respondent without considering the application made by the petitioner, who is the owner of the land to the extent of Ac.15.00 guntas is illegal and arbitrary. He points out that when the mining lease is granted in respect of patta land, Rule 9 of Mineral Concession Rules, 1960 (Central Rules), requires the consent of the owner but the petitioner did not give any consent for grant of lease to the seventh respondent. **Opposing** the writ petition, the learned Government

Pleader for Industries submits that the lease was granted in favour of seventh respondent as per Central Rules, subject to environmental clearance and consent from A.P.Pollution Control Board and therefore, there is no illegality in exercise of power by the first respondent under the Central Rules. He also points out that under Rule 54 of the Central Rules, a revision would lie to the Government against any order passed by the State Government and therefore, the writ petition is not maintainable.

This Court finds force in the submission of the learned Government Pleader. When an effective and efficacious alternative remedy is available, ordinarily a writ petition would not lie. Learned counsel for the petitioner does not dispute this. As there are factual aspects requiring scrutiny, this Court is not inclined to decide the merit of the case. The petitioner is given liberty to file revision petition under Rule 54 of the Central Rules before the Central Government. As and when the same is filed, the Government of India may decide the same on merits after issuing notice to seventh respondent.

The writ petition, with the above observations, is dismissed without expressing any opinion on the merit of the case. No costs.

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(V.V.S.RAO,J)

27.11.2006.
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